

AMENDED IN SENATE JULY 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1700

Introduced by ~~Committee on Environmental Safety and Toxic Materials (Laird (Chair), Chu, Levine, Lieber, and Lowenthal)~~
Assembly Members Laird and Wiggins

February 25, 2003

~~An act to amend Section 116365 of the Health and Safety Code, relating to drinking water. An act to add Section 25253.5 to the Health and Safety Code, and to add Section 13177.7 to the Water Code, relating to hazardous substances, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1700, as amended, ~~Committee on Environmental Safety and Toxic Materials Laird. Drinking water: risk assessments Budget Act of 2003: contaminated sites: funding: remediation.~~

Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, imposes liability for hazardous substance removal or remedial actions and requires the Department of Toxic Substances Control to adopt, by regulation, criteria for the selection and for the priority ranking of hazardous substance release sites for removal or remedial action under the act. The act authorizes the department to expend the funds in the Toxic Substances Control Account in the General Fund, upon appropriation by the Legislature, to pay for, among other things, removal and remedial actions related to the release of hazardous substances. Existing law generally requires the Controller to abolish any state position that is vacant for six consecutive months pay on the following July 1.

This bill would prohibit the Controller and the Director of Finance from eliminating any staff position of the department funded from Item 3960-011-0557 or Item 3960-001-0890 of the Budget Act of 2003 related to the oversight of projects associated with remediation and revitalization of contaminated properties, including, but not limited to, closed military bases. The bill would also prohibit the Controller and the Department of Finance from imposing any hiring freeze or personal services limitations, including any staff position reductions, upon any staff position of the department funded from those budget items and would require the Controller and the Department of Finance to exclude, from the department's base for purposes of calculating any budget or staff position reductions required by the other state agency or state law, including the Budget Act of 2003, the specific amounts and positions from those budget items. The bill would also prohibit the Controller and the Department of Finance from requiring the department to reduce authorized positions or other appropriations for other department programs, including personal services, to implement those prohibitions and requirements.

The bill would authorize the department to establish staff positions to avoid undue delays in the department's oversight activities associated with remediation and revitalization of contaminated properties. The bill would also require the Controller, upon request of the department, and upon review and approval by the Department of Finance, to augment the appropriations made in those budget items. The bill would provide that these provisions do not apply to any appropriation or expenditure of General Fund moneys.

The bill would also impose similar restrictions and requirements upon the Controller and the Department of Finance with regard to any position of the State Water Resources Control Board funded from Item 3940-001-0001 or Item 3940-001-0890 of the Budget Act of 2003 related to the oversight of projects associated with remediation and revitalization of contaminated properties, including, but not limited to, closed military bases.

~~Existing law, commonly known as the California Safe Drinking Water Act, requires the State Department of Health Services to adopt primary drinking water standards for contaminants in drinking water that are to be set at levels as close as possible to the corresponding public health goal and consistent with specified criteria. Existing law requires the Office of Environmental Health Hazard Assessment to prepare and publish an assessment of the risks to public health posed by each~~



~~contaminant for which the department proposes a primary drinking water standard in accordance with specified procedures.~~

~~Existing law requires the office to submit the risk assessment to external scientific peer review prior to its publication, upon the request of any interested person who meets prescribed requirements.~~

~~This bill would authorize the office, notwithstanding the above requirement, to deny a request to submit a risk assessment to scientific peer review if certain conditions are met. The bill would also make various technical, nonsubstantive changes.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. — Section 116365 of the Health and Safety Code~~

SECTION 1. Section 25253.5 is added to the Health and Safety Code, to read:

25253.5. (a) (1) Notwithstanding Section 12439 of the Government Code, the Controller may not eliminate any staff position of the department funded from Item 3960-011-0557 or Item 3960-001-0890 of Section 2.00 of the Budget Act of 2003 related to the oversight of projects associated with remediation and revitalization of contaminated properties, including, but not limited to, closed military bases.

(2) Notwithstanding Section 4.10 of the Budget Act of 2003, the Director of Finance may not eliminate any staff position of the department funded from Item 3960-011-0557 or Item 3960-001-0890 of Section 2.00 of the Budget Act of 2003 related to the oversight of projects associated with remediation and revitalization of contaminated properties, including, but not limited to, closed military bases.

(b) Neither the Controller nor the Department of Finance may impose any hiring freeze or personal services limitations, including any staff position reductions, upon any positions of the department funded from Item 3960-011-0557 or from Item 3960-001-0890 of Section 2.00 of the Budget Act of 2003 related to the oversight of projects associated with remediation and revitalization of contaminated properties, including, but not limited to, closed military bases.

1 (c) The Controller and the Department of Finance shall
2 exclude, from the department's base for purposes of calculating
3 any budget or staff position reductions required by any state
4 agency or any state law, including the Budget Act of 2003, the
5 specific amounts and positions from Item 3960-011-0557 and from
6 Item 3960-001-0890 of Section 2.00 of the Budget Act of 2003
7 appropriated for the oversight of projects associated with
8 remediation and revitalization of contaminated properties,
9 including, but not limited to, closed military bases.

10 (d) Notwithstanding any other provision of law, neither the
11 Controller nor the Department of Finance may require the
12 department to reduce authorized staff positions or other
13 appropriations for other department programs, including
14 personal services, to implement subdivision (a), (b), or (c).

15 (e) The department may administratively establish staff
16 positions to avoid an undue delay in the department's oversight
17 activities associated with the remediation and revitalization of
18 contaminated properties, including, but not limited to, closed
19 military bases, if all employee compensation, personal services,
20 and related costs, including increases in personal services
21 expenses resulting from collective bargaining, are fully funded by
22 a military base or a Defense Site Memorandum of Agreement
23 grant.

24 (f) Upon request of the department, and upon review and
25 approval by the Department of Finance, the Controller shall
26 augment the appropriations in Item 3960-011-0557 and Item
27 3960-011-0890 of Section 2.00 of the Budget Act of 2003 for the
28 oversight of projects associated with remediation and
29 revitalization of contaminated properties, including, but not
30 limited to, closed military bases, as needed, to provide funding for
31 any staff positions administratively established pursuant to
32 subdivision (e) or compensation contained in a collective
33 bargaining agreement.

34 (g) This section does not apply to any appropriation or
35 expenditure of General Fund moneys.

36 SEC. 2. Section 13177.7 is added to the Water Code, to read:
37 13177.7. (a) (1) Notwithstanding Section 12439 of the
38 Government Code, the Controller may not eliminate any staff
39 position of the State Water Resources Control Board funded from
40 Item 3940-001-0001 or Item 3940-001-0890 of Section 2.00 of the

Budget Act of 2003 related to the oversight of projects associated with remediation and revitalization of contaminated properties, including, but not limited to, closed military bases.

(2) Notwithstanding Section 4.10 of the Budget Act of 2003, the Director of Finance may not eliminate any staff position of the State Water Resources Control Board positions funded from Item 3940-001-0001 or Item 3940-001-0890 of Section 2.00 of the Budget Act of 2003 related to the oversight of projects associated with remediation and revitalization of contaminated properties, including, but not limited to, closed military bases.

(b) Neither the Controller nor the Department of Finance may impose any hiring freeze or personal services limitations, including any staff position reductions, upon any positions of the state board funded from Item 3940-001-0001 or Item 3940-001-0890 of Section 2.00 of the Budget Act of 2003 related to the oversight of projects associated with remediation and revitalization of contaminated properties, including, but not limited to, closed military bases.

(c) Neither the Controller nor the Department of Finance shall exclude, from the state board's base for purposes of calculating any budget or staff position reductions required by any state agency or any state law, including the Budget Act of 2003, the specific amounts and positions from Item 3940-001-0001 and Item 3940-001-0890 of Section 2.00 of the Budget Act of 2003 related to the oversight of projects associated with remediation and revitalization of contaminated properties, including, but not limited to, closed military bases.

(d) Notwithstanding any other provision of law, neither the Controller nor the Department of Finance may require the state board to reduce authorized staff positions or other appropriations for other board programs, including personal services, to implement subdivision (a), (b), or (c).

(e) The state board may administratively establish staff positions to avoid an undue delay in the state board's oversight activities associated with the remediation and revitalization of contaminated properties, including, but not limited to, closed military bases, if all employee compensation, personal services, and related costs, including increases in personal services expenses resulting from collective bargaining, are fully funded by a military base or Defense Site Memorandum of Agreement grant.

(f) Notwithstanding any other provision of law, upon the request of the state board, and upon review and approval by the Department of Finance, the Controller shall augment the appropriations in Item 3940-001-0001 and Item 3940-001-0890 of Section 2.00 of the Budget Act of 2003 for the oversight of projects associated with remediation and revitalization of contaminated properties, including, but not limited to, closed military bases, as needed, to provide funding for any staff positions administratively established pursuant to subdivision (e) or compensation contained in a collective bargaining agreement.

(g) This section does not apply to any appropriation or expenditure of General Fund moneys.

is amended to read:

~~116365. (a) The department shall adopt primary drinking water standards for contaminants in drinking water that are based upon the criteria set forth in subdivision (b) and shall not be less stringent than the national primary drinking water standards adopted by the United States Environmental Protection Agency. Each primary drinking water standard adopted by the department shall be set at a level that is as close as feasible to the corresponding public health goal placing primary emphasis on the protection of public health, and that, to the extent technologically and economically feasible, meets all of the following:~~

~~(1) With respect to acutely toxic substances, avoids any known or anticipated adverse effects on public health with an adequate margin of safety.~~

~~(2) With respect to carcinogens, or any substances that may cause chronic disease, avoids any significant risk to public health.~~

~~(b) The department shall consider all of the following criteria when it adopts a primary drinking water standard:~~

~~(1) The public health goal for the contaminant published by the office pursuant to subdivision (c).~~

~~(2) The national primary drinking water standard for the contaminant, if any, adopted by the United States Environmental Protection Agency.~~

~~(3) The technological and economic feasibility of compliance with the proposed primary drinking water standard. For the purposes of determining economic feasibility pursuant to this paragraph, the department shall consider the costs of compliance to public water systems, customers, and other affected parties with~~

1 ~~the proposed primary drinking water standard, including the cost~~
2 ~~per customer and aggregate cost of compliance, using best~~
3 ~~available technology.~~

4 ~~(c) (1) The office shall prepare and publish an assessment of~~
5 ~~the risks to public health posed by each contaminant for which the~~
6 ~~department proposes a primary drinking water standard. The risk~~
7 ~~assessment shall be prepared using the most current principles,~~
8 ~~practices, and methods used by public health professionals who are~~
9 ~~experienced practitioners in the fields of epidemiology, risk~~
10 ~~assessment, and toxicology. The risk assessment shall contain an~~
11 ~~estimate of the level of the contaminant in drinking water that is~~
12 ~~not anticipated to cause or contribute to adverse health effects, or~~
13 ~~that does not pose any significant risk to health. This level shall be~~
14 ~~known as the public health goal for the contaminant. The public~~
15 ~~health goal shall be based exclusively on public health~~
16 ~~considerations and shall be set in accordance with all of the~~
17 ~~following:~~

18 ~~(A) If the contaminant is an acutely toxic substance, the public~~
19 ~~health goal shall be set at the level at which no known or~~
20 ~~anticipated adverse effects on health occur, with an adequate~~
21 ~~margin of safety.~~

22 ~~(B) If the contaminant is a carcinogen or other substance that~~
23 ~~may cause chronic disease, the public health goal shall be set at the~~
24 ~~level that, based upon currently available data, does not pose any~~
25 ~~significant risk to health.~~

26 ~~(C) To the extent information is available, the public health~~
27 ~~goal shall take into account each of the following factors:~~

28 ~~(i) Synergistic effects resulting from exposure to, or interaction~~
29 ~~between, the contaminant and one or more other substances or~~
30 ~~contaminants.~~

31 ~~(ii) Adverse health effects the contaminant has on members of~~
32 ~~subgroups that comprise a meaningful portion of the general~~
33 ~~population, including, but not limited to, infants, children,~~
34 ~~pregnant women, the elderly, individuals with a history of serious~~
35 ~~illness, or other subgroups that are identifiable as being at greater~~
36 ~~risk of adverse health effects than the general population when~~
37 ~~exposed to the contaminant in drinking water.~~

38 ~~(iii) The relationship between exposure to the contaminant and~~
39 ~~increased body burden and the degree to which increased body~~

1 burden levels alter physiological function or structure in a manner
2 that may significantly increase the risk of illness.

3 (iv) ~~The additive effect of exposure to the contaminant in~~
4 ~~media other than drinking water, including, but not limited to,~~
5 ~~exposures to the contaminant in food, and in ambient and indoor~~
6 ~~air, and the degree to which these exposures may contribute to the~~
7 ~~overall body burden of the contaminant.~~

8 (D) ~~If the office finds that currently available scientific data are~~
9 ~~insufficient to determine the level of a contaminant at which no~~
10 ~~known or anticipated adverse effects on health will occur, with an~~
11 ~~adequate margin of safety, or the level that poses no significant risk~~
12 ~~to public health, the public health goal shall be set at a level that~~
13 ~~is protective of public health, with an adequate margin of safety.~~
14 ~~This level shall be based exclusively on health considerations and~~
15 ~~shall, to the extent scientific data are available, take into account~~
16 ~~the factors set forth in subparagraph (C), and shall be based on the~~
17 ~~most current principles, practices, and methods used by public~~
18 ~~health professionals who are experienced practitioners in the fields~~
19 ~~of epidemiology, risk assessment, and toxicology. However, if~~
20 ~~adequate scientific evidence demonstrates that a safe dose~~
21 ~~response threshold for a contaminant exists, then the public health~~
22 ~~goal should be set at that threshold. The department may set the~~
23 ~~public health goal at zero if necessary to satisfy the requirements~~
24 ~~of this subparagraph.~~

25 (2) ~~The determination of the toxicological endpoints of a~~
26 ~~contaminant and the publication of its public health goal in a risk~~
27 ~~assessment prepared by the office are not subject to the~~
28 ~~requirements of Chapter 3.5 (commencing with Section 11340) of~~
29 ~~Part 1 of Division 3 of Title 2 of the Government Code. The office~~
30 ~~and the department shall not impose any mandate on a public water~~
31 ~~system that requires the public water system to comply with a~~
32 ~~public health goal. The Legislature finds and declares that the~~
33 ~~addition of this paragraph by the act amending this section during~~
34 ~~the 1999–2000 Regular Session of the Legislature is declaratory~~
35 ~~of existing law.~~

36 (3) (A) ~~Beginning July 1, 2001, the office shall, at the time it~~
37 ~~commences preparation of a risk assessment for a contaminant as~~
38 ~~required by this subdivision, electronically post on its Internet web~~
39 ~~page a notice that informs interested persons that it has initiated~~
40 ~~work on the risk assessment. The notice shall also include a brief~~

1 description, or a bibliography, of the technical documents or other
2 information the office has identified to date as relevant to the
3 preparation of the risk assessment and inform persons who wish
4 to submit information concerning the contaminant that is the
5 subject of the risk assessment of the name and address of the person
6 in the office to whom the information may be sent, the date by
7 which the information must be received in order for the office to
8 consider it in the preparation of the risk assessment, and that all
9 information submitted will be made available to any member of
10 the public who requests it. Until July 1, 2001, the office shall send
11 the notice to interested persons who request it by mail.

12 (B) Each draft risk assessment prepared by the office pursuant
13 to this subdivision shall be made available to the public at least 45
14 calendar days prior to the date that public comment and discussion
15 on the risk assessment are solicited at the public workshop required
16 by Section 57003.

17 (C) At the time the office publishes the final risk assessment for
18 a contaminant, the office shall respond in writing to significant
19 comments, data, studies, or other written information submitted by
20 interested persons to the office in connection with the preparation
21 of the risk assessment. Any comments, data, studies, or other
22 written information submitted to the office shall be made available
23 to any member of the public who requests it.

24 (D) Any interested person may, within 15 calendar days of the
25 date the public workshop on a risk assessment is completed
26 pursuant to Section 57003, request the office to submit the risk
27 assessment to external scientific peer review prior to its
28 publication. If the office receives such a request, the office shall
29 submit the risk assessment to external scientific peer review in a
30 manner substantially equivalent to the external scientific peer
31 review process set forth in Section 57004, if the person requesting
32 the external scientific peer review enters into an enforceable
33 agreement with the office within 15 calendar days of making the
34 request that requires the person requesting the external scientific
35 peer review to fully reimburse the office for all of the costs
36 associated with conducting the external scientific peer review.

37 (E) It is the intent of the Legislature that, if the office receives
38 a request to submit a risk assessment prepared for a contaminant
39 to which paragraph (2) of subdivision (c) applies to external
40 scientific review, the peer review shall be conducted in a manner

1 ~~that does not affect the schedule for publishing the public health~~
2 ~~goal for that contaminant as set forth in paragraph (2) of~~
3 ~~subdivision (e).~~

4 ~~(F) Notwithstanding subparagraph (D), the office may deny a~~
5 ~~request to submit a risk assessment to scientific peer review if the~~
6 ~~draft risk assessment for the public health goal has already been~~
7 ~~submitted by the office for scientific peer review within six months~~
8 ~~of the date the draft public health goal is made public and a~~
9 ~~summary of the scientific peer review comments is made available~~
10 ~~to the public at the workshop or upon request.~~

11 ~~(d) Notwithstanding any other provision of this section, any~~
12 ~~maximum contaminant level in effect on August 22, 1995, may be~~
13 ~~amended by the department to make the level more stringent~~
14 ~~pursuant to this section. However, the department may only amend~~
15 ~~a maximum contaminant level to make it less stringent if the~~
16 ~~department shows clear and convincing evidence that the~~
17 ~~maximum contaminant level should be made less stringent and the~~
18 ~~amendment is made consistent with this section.~~

19 ~~(e) (1) All public health goals published by the office shall be~~
20 ~~established in accordance with the requirements of subdivision (e)~~
21 ~~and shall be reviewed at least once every five years and revised,~~
22 ~~pursuant to subdivision (e), as necessary based upon the~~
23 ~~availability of new scientific data.~~

24 ~~(2) On or before January 1, 1998, the office shall publish a~~
25 ~~public health goal for at least 25 drinking water contaminants for~~
26 ~~which a primary drinking water standard has been adopted by the~~
27 ~~department. The office shall publish a public health goal for 25~~
28 ~~additional drinking water contaminants by January 1, 1999, and~~
29 ~~for all remaining drinking water contaminants for which a primary~~
30 ~~drinking water standard has been adopted by the department by no~~
31 ~~later than December 31, 2001. A public health goal shall be~~
32 ~~published by the office at the same time the department proposes~~
33 ~~the adoption of a primary drinking water standard for any newly~~
34 ~~regulated contaminant.~~

35 ~~(f) The department or office may review, and adopt by~~
36 ~~reference, any information prepared by, or on behalf of, the United~~
37 ~~States Environmental Protection Agency for the purpose of~~
38 ~~adopting a national primary drinking water standard or maximum~~
39 ~~contaminant level goal when it establishes a California maximum~~
40 ~~contaminant level or publishes a public health goal.~~

1 ~~(g) At least once every five years after adoption of a primary~~
2 ~~drinking water standard, the department shall review the primary~~
3 ~~drinking water standard and shall, consistent with the criteria set~~
4 ~~forth in subdivisions (a) and (b), amend any standard if any of the~~
5 ~~following occur:~~

6 ~~(1) Changes in technology or treatment techniques that permit~~
7 ~~a materially greater protection of public health or attainment of the~~
8 ~~public health goal.~~

9 ~~(2) New scientific evidence that indicates that the substance~~
10 ~~may present a materially different risk to public health than was~~
11 ~~previously determined.~~

12 ~~(h) Not later than March 1 of every year, the department shall~~
13 ~~provide public notice of each primary drinking water standard it~~
14 ~~proposes to review in that year pursuant to this section. Thereafter,~~
15 ~~the department shall solicit and consider public comment and hold~~
16 ~~one or more public hearings regarding its proposal to either amend~~
17 ~~or maintain an existing standard. With adequate public notice, the~~
18 ~~department may review additional contaminants not covered by~~
19 ~~the March 1 notice.~~

20 ~~(i) This section shall operate prospectively to govern the~~
21 ~~adoption of new or revised primary drinking water standards and~~
22 ~~does not require the repeal or readoption of primary drinking water~~
23 ~~standards in effect immediately preceding January 1, 1997.~~

24 ~~(j) The department may, by regulation, require the use of a~~
25 ~~specified treatment technique in lieu of establishing a maximum~~
26 ~~contaminant level for a contaminant if the department determines~~
27 ~~that it is not economically or technologically feasible to ascertain~~
28 ~~the level of the contaminant.~~

29 ~~(k) For purposes of this section, "office" means the Office of~~
30 ~~Environmental Health Hazard Assessment.~~